

(23,756)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1913.

No. 605.

MALINDA THURSTON, ADMINISTRATRIX OF THE ES-
TATE OF WILLIAM CAMERON, DECEASED,
APPELLANT,

vs.

THE UNITED STATES AND THE UTE INDIANS.

APPEAL FROM THE COURT OF CLAIMS.

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1 I. *Petition. Filed October 7, 1892.*

In the Court of Claims of the United States, December Term, 1891.

Indian Depredation, No. 8479.

MALINDA THURSTON, Administratrix of the Estate of William Cameron, Deceased,

vs.

THE UNITED STATES and UTE INDIANS.

Petition.

To the Honorable the Court of Claims:

Your petitioner, Malinda Thurston, Administratrix of the estate of William Cameron, by her attorney, A. L. Hughes, would respectfully represent:

1. That she is a citizen of the United States, residing in Stockton, County of San Joaquin, and State of California.

2. That this petition is presented under and in pursuance of the provisions of an act of Congress approved March 3, 1891, entitled "An Act to Provide for the Adjudication and payment of Claims arising from Indian Depredations."

3. That on or about the 11th day of September, A. D., 1857, at or near Mountain Meadows, in ——— County, in the Territory of Utah, a band or party of Indians belonging to a band, tribe, or nation, known as Ute Indians, then in amity with the United States, did then and there, without just cause or provocation on the part of the owner or of the agent in charge, take, steal, and carry away or destroy, the following articles of property belonging to said William Cameron, a citizen and resident of the United States, each of said articles being of the value set opposite thereto, to-wit:

2	Two emigrant wagons.....	\$1,250
	Twenty-four oxen at \$125 a piece.....	3,000
	Three hundred cows at \$90 a piece.....	27,000
	Three horses at \$80 a piece.....	240
	One race mare.....	3,000
	Gold coin	3,000
	Total.....	<u>\$37,490</u>

4. That said above-stated items of property so taken by said Indians were reasonably worth the values above set forth; that claimant is entitled to the amount claimed therefor, after allowing all just off-sets and counter-claims; that claimant is lawful owner of this claim; and that no assignment or transfer of this claim, or of any part thereof, or of any interest therein, has ever been made.

5. That this claim with evidence was on November 12, 1877, filed in the House of Representatives as Bill 1459, in the 1st session of the 45th Congress and was on that date referred to the Committee on Claims; that said claim was again filed in the House of Representatives on March 18, 1878, as Bill 3945, in the 2nd session of the 45th Congress and again referred to the Committee on Claims;

6. That in both the above bills the depredation is alleged to have been committed by Mormons alone; that said allegation has been proved a mistake by historical evidence; and that the depredation was committed by Mormons and Indians;

7. That William Cameron died intestate on, or about September 11, 1857, and that his daughter Malinda Thurston was on April 30, 1892, appointed lawful administratrix of his estate and is still acting in that capacity;

8. That no part of said claim has ever been received; nor has any of said property been returned, recovered, or paid for; and that there is now due, to claimant thereon, from the United States and from the Ute Indians, the sum of Thirty seven thousand four hundred and ninety dollars.

9. That claimant believes the facts, as herein stated, to be true.

10. Wherefore, claimant prays judgment upon the facts and the law, against the United States and the Ute Indians, in the sum of Thirty seven thousand four hundred and ninety dollars; and that her attorney herein shall have judgment therefrom for such lawful fees and expenses as the court may deem proper, and for such other relief as claimant may be entitled to in the premises.

A. L. HUGHES,
Attorney for Claimant.

By virtue of the power conferred on me by the claimant herein, I hereby constitute and appoint A. L. Hughes as attorney for the prosecution of the foregoing claim, and hereby ratify and confirm all acts of said attorney herein, reserving to myself full and exclusive powers of revocation and substitution in the appointment of such attorney.

JOHN WEDDERBURN,
Attorney in Fact.

DISTRICT OF COLUMBIA,
County of Washington, ss:

Personally before me, a Notary Public, within and for the District and County aforesaid, appeared John Wedderburn who, being by me first duly sworn, deposes and says: I am the agent and attorney in fact, of the claimant in this case. I have read the above petition, and the facts set forth therein are true, to the best of my knowledge, information and belief.

JOHN WEDDERBURN.

Subscribed and sworn to before me this 5th day of October, A. D. 1892.

[SEAL.]

CARROLL D. JUDSON,
Notary Public.

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II. *Traverse. Filed January 14, 1913.*

General Traverse.

Now comes the Assistant Attorney General on behalf of the United States and the defendant Indians and, answering the petition of the claimant herein, denies each and every allegation therein contained and asks judgment that the petition be dismissed.

WILLIAM H. LEWIS,
Assistant Attorney General.

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III. *Argument and Submission of Case.*

On January 14, 1913, this case came on to be heard. Mr. Frank S. Perry was heard for the claimant. On January 15, 1913, Mr. Perry was heard further for the claimant; Mr. Assistant Attorney General William H. Lewis was heard for the defendants and the case was submitted.

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IV. *Findings of Fact, Finally Amended as of April 7, 1913, and Conclusion of Law Dismissing Petition.*

Court of Claims of the United States.

Indian Depredation, No. 8479.

MALINDA THURSTON, Administratrix of the Estate of William Cameron, Deceased,

v.

THE UNITED STATES and UTE INDIANS.

This case having been heard by the Court of Claims, the court, upon the evidence, makes the following findings of fact.

I.

William Cameron, the owner of the property for which claim is made, was a citizen of the United States. William Cameron and his family were killed in Utah in September, 1857. The claimant, Malinda Thurston, qualified as administratrix of William Cameron, deceased, under an order of the Superior Court of San Joaquin County, California, dated April 29, 1892.

II.

The Ute Indians in Utah in September, 1857, were members of the tribe in amity with the United States.

III.

In 1857, William Cameron, his wife, Martha Cameron, their five sons and their married daughters, Nancy Cameron, Matilda Miller

and the claimant, Malinda Thurston, formed part of a wagon train which was en route from Arkansas to California. The train consisted of animals, cattle, horses, wagons and all the general outfit of emigrant trains of those days. The wagon train arrived at Salt Lake City, Utah, in August, 1857, and divided. A part of the emigrants in three or four wagons, among whom was the claimant,

Malinda Thurston and her husband, took what was known
7 as the northern route to California. The remainder of the train, consisting of some 25 or more wagons, took the southern route to California. Among those who went with the train on this southern route were William Cameron, his wife and children.

During the early part of September, 1857, the larger wagon train that took the southern route reached Mountain Meadows, Utah, near the boundary line of California. While at this place the Ute Indians, and Mormons disguised as Indians, made an attack upon the wagon train killing 7 members of the party. The emigrants made a corral of their wagons and beat off the attack. A company of Mormon militia, about 50 men under Major John Higbee, went to the scene of the attack. One of the Mormons named Lee, afterwards executed for his participation in the massacre, washed the paint off his face and approached the emigrants' train under a white flag. He persuaded the emigrants to surrender and give up their arms under promise of protection and safe escort back to the settlements. The women and children were sent on ahead, the men marched behind them single file with a Mormon militiaman at each man's side. At a given signal each militiaman shot down the emigrant at his side. The Indians fell upon the women and children. The Mormons assisted by the Indians massacred all of the company save some 15 children who were too young at the time to remember afterwards the event. Among the children saved and returned to their families were the three children of Matilda Miller, a sister of Malinda Thurston. The property of the emigrants was confiscated by the Mormons and Indians. There were 200 Indians concerned in the attack.

At the time of the massacre Utah was without a lawful government and was controlled by Brigham Young, who had declared martial law and called out the militia of the territory. All the United States officials, judicial and executive, with the single
8 exception of 2 Indian agents who were Mormons, had been forced to flee the territory for their personal safety. The United States Government had sent Col. Albert Sidney Johnson with an armed force to restore peace to the territory.

IV.

The massacre at Mountain Meadows, Utah, in September, 1857, was of great and terrible interest to the country when it became known. Numerous official investigations and reports were made by the War Department and by Congress, and debates were had in Congress with reference to this massacre. A bill was passed appropriating \$10,000 for the recovery of the surviving children and 320 acres of land tendered to each of them.

V.

The Indians concerned in this massacre were members of the Ute tribe.

VI.

The property of William Cameron, taken and destroyed at the time of this massacre at Mountain Meadows, was of the reasonable value of \$9,500.00.

VII.

A bill was introduced in the House of Representatives on November 12, 1877 (H. R. 1459) for the relief of Malinda Thurston and Nancy Littleton, as the surviving children of William and Martha Cameron, in the amount of \$30,000. A second bill was introduced in the House of Representatives (H. R. 3945) on March 18, 1878, for the loss of the same property in the amount of \$37,490. Accompanying these two bills were two affidavits of Mrs. Malinda Thurston and the affidavits of three other witnesses. No other claim was filed before any of the Departments of the Government or before any officer or agent thereof.

The following are the bills introduced in Congress for the relief of Malinda Thurston and Nancy Littleton, and the accompanying affidavits filed in support of the claim:

“45th Congress, 1st Session.

H. R. 1459.

A Bill for the Relief of Malinda Thurston and Nancy Littleton.

Whereas William Cameron and Martha Cameron, the father and mother of Malinda Thurston and Nancy Littleton, and also the five brothers (named Tilghman, Ison, Henry, James and Larkin Cameron) of the said Malinda Thurston and Nancy Littleton, were murdered and robbed by the Mormons, on or about the month of August, eighteen hundred and fifty-seven, while en route for California, at or near what is known as Mountain Meadows, under the orders and by the command of Brigham Young; and

Whereas the said William Cameron was possessed of a large amount of personal property at that time, consisting of oxen, horses, cows, wagons, chains, and general outfit for emigrant trains, and also three thousand dollars in gold coin, all being of the value of thirteen thousand, six hundred and forty dollars, all of which was taken possession of by the Mormons at the time of the massacre of their father and his family; and

Whereas the said Malinda Thurston and Nancy Little are the only surviving children and the only heirs of the said William and Martha Cameron; and as the Government of the United States had exclusive jurisdiction over said Territory, and was bound to furnish ample protection and safety to emigrant citizens of the United States; Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be authorized, and is hereby order- and directed to pay to Malinda Thurston and Nancy Littleton, heirs of William Cameron, the sum of thirty thousand dollars out of any money now in the Treasury of the United States not otherwise appropriated."

"45th Congress, 2nd Session.

H. R. 3945.

A Bill for the Relief of Malinda Thurston and Nancy Littleton.

Whereas William Cameron and Martha Cameron, the father and mother of Malinda Thurston and Nancy Littleton, and also the five brothers (named Tilghman, Ison, Henry, James and Larkin Cameron) of the said Malinda and Nancy Littleton, were murdered and robbed by the Mormons, on or about the month of August, eighteen hundred and fifty-seven, at or near what is known as Mountain Meadows, under the orders and by the command of Brigham Young; and

Whereas the said William Cameron was possessed of a large amount of personal property at that time, consisting of oxen, horses, cows, wagons, chains, and general outfit for emigrant trains, and also three thousand dollars in gold coin, all being of the value of thirty seven thousand, four hundred and ninety dollars, all of which was taken possession of by the Mormons at the time of the massacre of their father and his family; and

Whereas the said Malinda Thurston and Nancy Littleton are the only surviving children and the only heirs of the said William and Martha Cameron, and as the Government of the United States had exclusive jurisdiction over said Territory, and was bound to furnish ample protection and safety to emigrant citizens of the United States; Therefore

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be authorized, and is hereby ordered and directed, to pay to Malinda Thurston and Nancy Littleton, heirs of William Cameron, the sum of thirty-seven thousand four hundred and ninety dollars out of any money now in the Treasury of the United States not otherwise appropriated."

To the Honorable the Senate and House of Representatives of the United States of America in Congress Assembled:

Your petitioner, Mrs. Malinda Thurston, of San Joaquin County, in the State of California, respectfully represents that she is forty-eight years of age, that she has been twice married, and that her first husband's name was Henry D. Scott and her maiden name was Malinda Cameron, and that her father's name was William Cameron and her mother's Martha Cameron. She further repre-

sents that in the year eighteen hundred and fifty-seven her said father, William Cameron, her mother, Martha Cameron, her brothers, Tilghman, Ison, Henry, James, and Larkin Cameron, her sisters, Martha Cameron and Mathilda Miller, her brother-in-law, Joseph Miller, and their children, named William Miller, Alfred Miller, Eliza Miller, and Joseph Miller, her cousin, named Nancy Cameron, her husband, Henry D. Scott, and herself, with their three children and her husband's brother-in-law, were in a wagon train en route for California from the East, and that on or about the third of August in said year eighteen hundred and fifty-seven they all arrived at Salt Lake City, that at the solicitation and under the advice of the Mormons and the representations that the stock could better be provided with feed, the train was divided, with the understanding that it was to be united outside of Salt Lake City and proceed by the northern route; and under said advice her husband, his brother-in-law, herself, and their three children and others started from Salt Lake and made one-day's journey, on the third of August, in said mentioned year, and there encamped to await her father's part of said train; and that they remained at said camp until the seventh day of August in said year, when her husband was killed by one of the men of the train (but not by the Mormons). She further says that on the tenth of said month of August she was confined and was thus left with four small children; that after waiting for her father's part of the train a long and reasonable time the train proceeded on, and she eventually reached California. She further represents that her said father, while at Salt Lake City, at the time mentioned, was advised to and persuaded to take the southern route, as the Mormons represented the feed for their stock was better and more plenty by said southern route; and that her said father, the said William Cameron, acting on said advice (although contrary to the agreement with her husband), did take said southern route, and that when some two or three days' journey from Salt Lake City the said Mormons, under the authority of Brigham Young, with force of arms, violently killed and murdered the following persons, to-wit, her father, William Cameron, her mother, Martha Cameron, her brothers, Tilghman Cameron, Ison Cameron, Henry Cameron, James Cameron, and Larkin Cameron, her sister, Martha Cameron, her sister Mathilda Miller, Joseph Miller, and their child William Miller, and also killed other persons — to her whose names are unknown; and captured Joseph and Mathilda Miller's children, named Alfred, Eliza, and Joseph, and her cousin, Nancy Cameron, who is yet with the Mormons and who is aged, about thirty-two years at this time.

She further represents that her said father, William Cameron, was the owner of the following-named property, stock, and money, all of which was taken possession of by the Mormons at the time of the massacre of the family of the said William Cameron, to-wit:

Two large emigrant wagons, with outfit, chains, covers, etc.,
 11 of the value of twelve hundred and fifty dollars (\$1,250);
 three hundred and fifty number one cows of the value of
 ninety dollars (\$90) each—total value, three thousand one hundred

and fifty dollars (\$3,150); three head of horses of the value of eighty dollars each (\$80)—total value of two hundred and forty dollars (\$240); one full blood race mare of the value of three thousand dollars (\$3000)—known afterwards among the Mormons as "One-eye Blaze," and run by them; and three thousand dollars in gold coin; and she says that the total value of the property and money so taken from her father at the time he was murdered as aforesaid was thirteen thousand six hundred and forty dollars.

She further represents that she has one sister living (who was not with the train at the time of the massacre), whose name is Mrs. Nancy Littleton, who resides at Stockton, California, and that said sister and herself are the heirs and only surviving children of the said William Cameron and Martha Cameron who were murdered by the Mormons and robbed as aforesaid and at the time aforementioned, and she respectfully asks that Congress may pass a bill of relief for herself and her said sister, Nancy Littleton, reimbursing them for the property so taken from their father, the said William Cameron, as above stated, and that they also be reimbursed for the interest on the value of said property from the time of said massacre and robbery until the present time.

She further represents that she verily believes that she, the said petitioner, and the said Nancy Littleton are entitled to receive from the United States the full value of said property and money, as the said petitioner will ever pray.

MALINDA (her x mark) THURSTON.

Witness:

JOHN H. WEBSTER.

STATE OF CALIFORNIA,

County of San Joaquin:

Mrs. Malinda Thurston being duly sworn, says that the statements in the foregoing petition are true as she knows from her own personal knowledge and from authentic information that she had received of the account of the massacre of her family from those who knew the circumstances.

MALINDA (her x mark) THURSTON.

Witness:

JOHN H. WEBSTER.

Sworn to and subscribed before me this 15th day of October, A. A. 1877.

JOHN H. WEBSTER,
Notary Public, San Joaquin County, Cal.

To the Honorable the Senate and House of Representatives of the United States of America in Congress Assembled:

Your petitioner respectfully represents that she is a resident of San Joaquin County, in the State of California; that she is the

daughter of William Cameron and Martha Cameron, who were murdered and robbed by the Mormons in the year 1857 while en route to California; that she has been twice married, and that in the month of August, 1857, she, with her first husband, her three children, her said father and mother, William Cameron and Martha Cameron, and her five brothers, named Tilghman, Ison, Henry, James, and Larkin Cameron, and also her cousin, Nancy Cameron, and her petitioner's husband's brother-in-law, and divers other persons whose names she does not now remember, were en route from the East to California in a large emigrant train, with numerous cattle, horses, wagons and the general outfit of emigrant trains of those days. She further represents that when the train arrived at

12 Salt Lake City on or about the first of August, in said year 1857, the Mormons persuaded her husband, whose name was

H. D. Scott, to consent to divide the train and to go out of the city of Salt Lake so as to give the stock a better chance for feed, her husband taking the usual northern route, and that her said husband, at the suggestion and advice of the Mormons, her said husband, herself, and her children, her husband's brother-in-law, and some of his men took their part of the train one day's journey out of Salt Lake City, leaving her father, William Cameron, and her mother, Martha Cameron, her five brothers in Salt Lake City, to follow them and join them the next day; that after waiting for some three days for her father and mother and brothers and their stock, her husband, the said H. D. Scott, was killed—but not by the Mormons—and some four days subsequent thereto she was confined, leaving her with four helpless children in the wilderness.

She further represents that after her said husband and herself and their part of the train had left Salt Lake City as aforesaid, the Mormons persuaded her father to take the southern route, representing that the feed for the large amount of stock he had was more abundant on that road, and that, acting under the advice of the Mormons, her said father William Cameron, with his said family and his stock, and other persons, did take said southern route, and consequently did not join her husband's part of the train; and that a few days thereafter, when the said William Cameron and his train and stock were near what is known as Mountain Meadows, the Mormon soldiers or forces, by order of Brigham Young, fell upon her father's train, attacked it, and murdered nearly every person in the train, including her father, her mother, and her brothers, and that the Mormons robbed the train of everything valuable. She says that her father owned the following property in the train, all of which was taken from her father by the Mormons and kept by them, to wit, two large emigrant wagons, with covers, chains, and general outfit, of the value of twelve hundred and fifty dollars; twenty-four oxen, of the value of one hundred and twenty-five dollars each; three hundred first-class cows, of the value of ninety dollars each; three head of horses, of the value of eighty dollars each; one racing mare, of the value of three thousand dollars (said mare being known among the Mormons as "one-eye Blaze," and run by them afterwards in southern California); and that they also

took from her father three thousand dollars in gold coin, and that the total value of the property so taken and robbed from her said father and mother is thirty-seven thousand and four hundred and ninety dollars. And she further says that she, the petitioner, and her sister, Mrs. Nancy Littleton, of Stockton, California, are the only surviving children of the said William Cameron and Martha Cameron, who were murdered by the Mormons under the command and by order of Brigham Young at Mountain Meadows, as aforesaid; and that her sister and herself are the heirs of said William Cameron. She further says that neither her sister nor herself have ever received from any person whatever or from the United States any remuneration or pay for said specified property so taken from her father; and she respectfully asks that Congress may pass a bill of relief for herself and her sister, the said Nancy Littleton, reimbursing them for the value of said property, and also for the interest on the value of the same from the time of the said Mountain Meadow massacre, in August, 1857. As your petitioner will ever pray.

STATE OF CALIFORNIA,
San Joaquin County, ss:

Mrs. Malinda Thurston, being duly sworn, says that she is 48 years of age, and a resident of San Joaquin County, in the State of California; that the facts set forth in the foregoing petition are true, as she knows from her knowledge personally up to the time of the arrival at Salt Lake and from authentic information obtained of the massacre of her father's family as above stated.

MALINDA (her x mark) THURSTON.

13 Subscribed and sworn to before me this 18th day of December, A. D. 1877.

[SEAL.]

H. T. COMPTON,

Notary Public in and for San Joaquin County, Cal.

In the Matter of the Petition of MALINDA THURSTON and NANCY LITTLETON for Relief.

STATE OF CALIFORNIA,
County of San Joaquin, ss:

Richard Thomas Scott, being duly sworn, deposes and says that he is a resident of the County of San Joaquin, State of California, over the age of twenty-one years, to wit, of the age of forty years, and has been a resident of said County of San Joaquin since the year 1857.

That affiant immediately before removing to California was a resident of the State of Arkansas and for about nine years prior to his removing to the State of California, was well and intimately acquainted with William Cameron and Martha Cameron, the father and mother of Malinda Thurston, and Nancy Littleton, who are now residents of the County of San Joaquin, State of California, and also

was well acquainted with the said Malinda Thurston, Nancy Littleton (formerly Malinda and Nancy Cameron) and their brothers, Tilghman, Ison, Henry, James, and Larkin Cameron. That affiant traveled with the Camerons across the plains towards California in the year 1857 as far as Salt Lake City, and parted with them at Salt Lake, the Cameron party going by way of the southern route to California, and our company, in which was Malinda Thurston, then the wife of my brother, Henry Dalton Scott, going by the northern or Humboldt, route to California. That after the arrival of our train in California, affiant learned that the said William Cameron and Martha Cameron (the father and mother of said Malinda Thurston and Nancy Littleton) and their sons Tilghman, Ison, Henry, James, and Larkin Cameron, had been murdered and robbed by the Mormons on or about the month of August, A. D., 1857, while en route to California, at or near what is known as the Mountain Meadows under and by orders of Brigham Young.

That the said Nancy Littleton did not accompany the said train, but remained in the State of Arkansas until the year 1873.

That affiant was a frequent visitor at the home of William and Martha Cameron during their residence in Arkansas and knew the said Malinda and Nancy before their marriage. That the said Malinda, married Henry Dalton Scott, affiant's brother, prior to their departure from Arkansas.

That said Malinda Thurston and the said Nancy Littleton are the only surviving children of said William Cameron and Martha Cameron.

That affiant is not interested in the said application or petition of said Nancy Littleton and Malinda Thurston.

Further affiant saith not.

R. T. SCOTT.

Subscribed and sworn to before me the 19th day of December, A. D., 1877.

[SEAL.]

H. T. COMPTON,

Notary Public in and for San Joaquin County, Cal.

14 In the Matter of the Petition of MALINDA THURSTON and NANCY LITTLETON for Relief, Before the House of Representatives, Forty-fifth Congress.

STATE OF CALIFORNIA,

County of Joaquin, ss:

John P. Shaver, being first duly sworn, deposes and says: I am a resident of the county of San Joaquin, State of California, and have resided in the city of Stockton, in said county, and in said county for the sixteen years last past, and have been a resident of the State of California since the 7th day of October, A. D. 1857. That affiant crossed the plains from Arkansas to California in the year 1857, and was well acquainted with William Cameron, Martha Cameron, Tilghman, Ison, Henry, James, and Larkin Cameron, who were murdered and robbed by the Mormons in the year 1857, while en

route to California. That affiant was not in the train of said Camerons, but frequently camped with them at the same camping ground, and saw them frequently while en route to California.

That the train of said Camerons arrived at Salt Lake City, Utah Territory, in the month of August, 1857, and while there I saw them a number of times. That they subsequently left Salt Lake City en route for California by the southern route, affiant's company coming by way of Ogden down the Humboldt River and through Carson Valley to California. That after affiant's arrival in California he learned of the Mountain Meadow massacre, and that the Camerons had been murdered and robbed at that place.

That the Camerons had in their emigrant train horses, wagons, mules, numerous cattle, oxen, and the general outfit of an emigrant train of those days, consisting of two large emigrant wagons, with covers, chains, etc., of the value of five hundred dollars. Affiant cannot estimate the value of the outfit to said wagons for want of knowledge.

There was also in said train sixteen head of work oxen, worth one hundred and fifty dollars per yoke; three hundred and fifty cows, that were of the average value of seventy-five dollars per head; five head of horses, of the value of one hundred and fifty dollars each; two mules, of the value of two hundred dollars each; one race mare, known as "One-eye Blaze." That affiant knew said race mare from a colt, and knew her to be blooded stock and of great value, to wit, of the value of six thousand dollars.

That affiant knew the Camerons in Johnson County, Arkansas, long prior to their departure to California. That affiant also knows Malinda Thurston and Nancy Littleton, and knows they are the surviving daughters of said William and Martha Cameron aforesaid.

That affiant has no interest in said claim; and is not related to said parties or either of them.

Further affiant saith not.

JOHN P. SHAVER.

Subscribed and sworn to before me the 19th day of December, A. D. 1877.

[SEAL.]

H. T. COMPTON,

Notary Public in and for San Joaquin County, Cal.

15 In the Matter of the Petition of MALINDA THURSTON and NANCY LITTLETON for Relief.

STATE OF CALIFORNIA,

County of San Joaquin, ss:

Ala Martin, being duly sworn, deposes and says: That she is a resident of the county of San Joaquin, State of California, over the age of twenty-one years, and is not interested in the subject matter of said application; that she has resided in said county for the twenty years last past; that she came to California from the State of Arkansas in the year 1857; that she was intimately acquainted with William Cameron and Martha Cameron, the father and mother of

Malinda Thurston and Nancy Littleton, and also the five brothers (named Tilghman, Ison, Henry, James, and Larkin Cameron) of the said Malinda Thurston and Nancy Littleton; that the father and mother and brothers of the said Malinda Thurston and Nancy Littleton were murdered and robbed by the Mormons while en route for California in the month of August, 1857; that she was frequently at the home of said William Cameron and Martha Cameron in Johnson County, Arkansas, and knew the said Malinda Thurston and Nancy Littleton when they were girls in their father's home in the county and State aforesaid, and knows that they were the children of said William and Martha Cameron and were so recognized by them and received into society as such; that subsequently the said Malinda Thurston intermarried with Henry Dalton Scott, who was killed while en route to California, but not by the Mormons; that several years after the arrival of Malinda Scott in California she married H. H. Thurston, and is now living with him at and in said county of San Joaquin; that the said Nancy Littleton married H. Littleton in the State of Arkansas and remained there until about the year 1873, when she settled in San Joaquin County, California, where she now lives; that affiant has met them frequently in said county of San Joaquin, California, and knows they are the identical persons whom she knew in Arkansas as the daughters of said William and Martha Cameron, and that they are the only surviving children of said William and Martha Cameron.

ALA MARTIN.

Subscribed and sworn to before me the 19th day of December.
A. D., 1877.

[SEAL.]

H. T. COMPTON,

Notary Public in and for San Joaquin County, Ca.

VIII.

No claim for the loss of property was made against the defendant Indians in the bills introduced in Congress for the relief of Malinda Thurston or in the affidavits of her witnesses. The claim, as appears from the papers filed in the case, was directed against the Mormons and no allegation was made against the Indians.

This claim having accrued prior to July 1, 1865, and not having been allowed or pending against the defendant Indians prior to March 3, 1891, before the Secretary of the Interior, or the Congress of the United States, or before any superintendent.

16 agent, sub-agent, or commissioner authorized under act of Congress to inquire into such claims, the court is without jurisdiction to consider the same.

Conclusion of Law.

Upon the foregoing findings of fact the court decides, as a conclusion of law, that the claimant is not entitled to recover, and her petition is therefore dismissed.

17 V. *Judgment of the Court Dismissing Petition.*

Indian Depredation, No. 8479.

MALINDA THURSTON, Administratrix of the Estate of William
Cameron, Deceased,

VS.

THE UNITED STATES and the UTE INDIANS.

At a Court of Claims held in the City of Washington on the 7th day of April, 1913, judgment was ordered to be entered as follows:

The Court on due consideration of the premises find for the defendants and do order, adjudge and decree that the petition of the claimant, Malinda Thurston, Administratrix of the Estate of William Cameron, deceased, be, and the same is hereby dismissed.

BY THE COURT.

18 VI. *Application for, and Allowance of, Appeal.*

Comes the claimant by attorney, and hereby makes application for appeal from the judgment of this Court rendered on the 7th day of April, 1913, dismissing the petition herein, to the Supreme Court of the United States.

JNO. W. CLARK,
Attorney for Claimant.

HARRY PEYTON,
F. SPRIGG PERRY,
Of Counsel.

Filed June 2, 1913.

Ordered:

That the above appeal be allowed as prayed for.

BY THE COURT.

June 2, 1913.

19 In the Court of Claims.

Indian Depredation, No. 8479.

MALINDA THURSTON, Administratrix of the Estate of William
Cameron, Deceased,

VS.

THE UNITED STATES and the UTE INDIANS.

I, John Randolph, Assistant Clerk of the Court of Claims, hereby certify that the foregoing are true transcripts of pleadings in the above-entitled cause; of the findings of fact, finally amended as of April 7, 1913, and conclusion of law filed by the Court; of the

judgment of the Court dismissing the petition; of the application for and allowance of appeal to the Supreme Court of the United States.

In testimony whereof I have hereunto set my hand and affixed the seal of the Court of Claims at Washington City, this 17 day of June 1913.

[Seal Court of Claims.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

Endorsed on cover: File No. 23,756. Court of Claims. Term No. 605. Malinda Thurston, administratrix of the estate of William Cameron, deceased, appellant, vs. The United States and The Ute Indians. Filed June 17th, 1913. File No. 23,756.